

# In the Supreme Court of the United States

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No. 282

HARRY J. AMELL, ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA

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ON PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF CLAIMS

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## MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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Petitioners, civilian seamen employed by the United States, sued in the Court of Claims to recover overtime pay and pay increases which they claimed under the Classification Act<sup>1</sup> and the Federal Employees Pay Act.<sup>2</sup> Upon the government's suggestion that seamen's wage suits are cognizable only in admiralty, the Court of Claims ordered the suits transferred to appropriate federal district courts (Pet. App. 16-19).

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<sup>1</sup> 63 Stat. 954, 5 U.S.C. 1071, *et seq.*

<sup>2</sup> 59 Stat. 295, 5 U.S.C. 901, *et seq.*

The petition seeks review of these transfer orders. The disposition of the court below, we submit, was clearly correct, and there is no conflict of decisions.

1. Seamen's wage claims are cognizable only in admiralty (*Putnam v. Lower*, 236 F. 2d 561 (C.A. 9); *Matson Navigation Co. v. United States*, 284 U.S. 352); when such claims are brought against the sovereign, they must be brought in admiralty under the Suits in Admiralty Act<sup>3</sup> or the Public Vessels Act.<sup>4</sup> *Thomason v. United States*, 184 F. 2d 105 (C.A. 9); *Jentry v. United States*, 73 F. Supp. 899 (S.D. Cal.). See also, *Fleet Corp. v. Rosenberg Bros.*, 276 U.S. 202; *American Stevedores v. Porello*, 330 U.E. 446.

2. The decision below is fully supported by this Court's holdings in *Johansen v. United States*, 343 U.S. 427, and *Patterson v. United States*, 359 U.S. 495. Both the Suits in Admiralty Act and the Public Vessels Act furnish "a complete system of administration" (*Fleet Corp. v. Rosenberg Bros.*, 276 U.S. at 213); and Congress' action in "providing remedies to be exclusive in admiralty would not serve substantially to establish uniformity if suits under the Tucker Act and in the Court of Claims be allowed against the United States \* \* \*." *Johnson v. Fleet Corp.*, 280 U.S. 320, 327.

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<sup>3</sup> 41 Stat. 525, 46 U.S.C. 741, *et seq.*

<sup>4</sup> 43 Stat. 1112, 46 U.S.C. 781, *et seq.*

**CONCLUSION**

For these reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

**ARCHIBALD COX,**  
*Solicitor General.*

July 1965